



Department of Justice

FOR IMMEDIATE RELEASE
TUESDAY, OCTOBER 22, 2002
WWW.USDOJ.GOV

AT
(202) 514-2007
TDD (202) 514-1888

**JUSTICE DEPARTMENT RECOMMENDS APPROVAL OF QWEST'S
REAPPLICATION TO PROVIDE LONG DISTANCE SERVICES IN COLORADO,
IDAHO, IOWA, MONTANA, NEBRASKA, NORTH DAKOTA, UTAH, WASHINGTON,
AND WYOMING**

Department Notes Concerns with Regard to Pricing, Section 272, and Information Access

WASHINGTON, D.C. - The Department of Justice today recommended that the Federal Communications Commission (FCC) approve Qwest's resubmitted application to provide long distance services in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming. The Department acknowledges progress on concerns raised in its Evaluations of Qwest's original applications for these states regarding operations support systems (OSS), but continues to urge the FCC to determine whether Qwest's pricing of unbundled network elements (UNEs) is appropriately cost-based. The Department originally voiced these concerns in evaluating Qwest's first two multistate applications, which were withdrawn pursuant to concerns about accounting practices relating to compliance with Section 272 of the Telecommunications Act. The Department also urges the FCC to fully investigate allegations that Qwest may have limited regulators' access to information about a testing process.

"The available evidence continues to suggests that generally, Qwest has succeeded in opening local telecommunications markets in these nine states to competition," said Charles A. James, Assistant Attorney General in charge of the Department's Antitrust Division. "In particular, competitors have made progress in penetrating the business markets in those states.

Questions remain, however, about several aspects of Qwest's application that merit further examination by the FCC."

The Department's Evaluation finds additional evidence submitted by Qwest pertaining to manual handling of orders, electronically auditable billing, and testing of line-sharing indicates performance sufficient to provide competitors with nondiscriminatory access to these systems, but endorses further monitoring by the FCC and state commissions to ensure continued adequacy. In addition, the Department urges the FCC to determine whether UNE rates recently adjusted are appropriately cost-based. The Department's evaluation acknowledges the importance of Section 272 and supports the Commission's resolve to thoroughly investigate this matter, deferring to its ultimate determination as to Qwest's compliance. The Department's evaluation also notes allegations made by AT&T that Qwest prevented regulators from obtaining complete information about a testing process on which CLECs rely, and urges the FCC to fully investigate the matter.

The Department provided its competitive analysis in an evaluation of Qwest's application to provide long distance services in Colorado, Idaho, Iowa, Montana, Nebraska, North Dakota, Utah, Washington, and Wyoming under Section 271 of the Telecommunications Act of 1996.

Since the break-up of the integrated Bell system as part of the AT&T divestiture, the independent Bell Operating Companies, or BOCs, have been barred from providing long distance services in their respective regions, first as part of the divestiture decree, and now under the terms of the Telecommunications Act. Under Section 271 of the Act, a BOC, such as Qwest, may not provide in-region long distance services until it demonstrates to the FCC that it has met a variety of legal requirements designed to open the local telecommunications markets in a particular state to competition.

In considering whether to approve a BOC's application for long distance authority in a particular state, the FCC must consult with the Department of Justice and give "substantial weight" to its assessment of competitive conditions and whether the BOC should be allowed to provide in-region long distance services.

Qwest filed its application with the FCC on September 30, 2002. Under the terms of the Act, the FCC must approve or deny the application within 90 days. A copy of the Department's evaluation will be available at:

<http://www.usdoj.gov/atr/public/comments/sec271/sec271.htm>.

###

02-484